

Notice of Allowability

Application No.

09/920,705

Examiner

Stuart F. Baum

Applicant(s)

AMASINO ET AL.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 9/14/2006.
2. ☒ The allowed claim(s) is/are 1, 4-9, 12, 14-16, 19, 21-22, 24-26 (renumbered 1-17).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

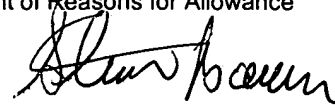
5. ☐ Notice of Informal Patent Application

6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____

7. ☒ Examiner's Amendment/Comment

8. ☐ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____


Stuart F. Baum

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Brian C. Cholewa on 10/4/2006.

3. IN THE CLAIMS:

--1. (Currently amended) A transgenic plant comprising in its genome a transgene comprising a [sense] FPA polynucleotide sequence in sense orientation, [which causes the plant to have an earlier flowering time as compared to non-transgenic plants of the same species,] wherein the FPA polynucleotide [encoding] encodes a protein [having] comprising SEQ ID NO:3, wherein expression of the transgene is sufficient [alone] to cause the plant to flower earlier as compared to other plants of the same species without the transgene.--

--5. (Currently amended) A transgenic plant comprising in its genome a transgene comprising a [sense] FPA polynucleotide sequence in sense orientation, wherein expression of the transgene [that] causes the plant to have an earlier flowering time as compared to non-transgenic plants of the same species, wherein the FPA polynucleotide sequence is SEQ ID NO:2.--

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--8. (Currently amended) A plant comprising in its genome a genetic construct comprising [a sense] an isolated FPA polynucleotide sequence in sense orientation, wherein [the] expression of the sequence in the plant causes an earlier flowering time of the plant as compared to non-transgenic plants of the same species, wherein the FPA polynucleotide is SEQ ID NO:2.--

16. (Currently amended) A plant seed comprising in its genome a genetic construct comprising [a sense] an isolated FPA polynucleotide sequence operably linked to [and] a plant expressible promoter in sense orientation, [which promotes expression of the FPA polynucleotide sequence in a plant,] wherein the FPA polynucleotide [encoding] encodes a protein [having] comprising SEQ ID NO:3, and wherein expression of the sequence in the plant causes an earlier flowering time of the plant as compared to non-transgenic plants of the same species.--

--21. (Currently amended) A transgenic plant cultivated from the seed of claim 16, wherein the plant comprises the genetic construct.--

--24. (Currently amended) An isolated DNA [sequence] molecule comprising a DNA sequence encoding the FPA protein from *Arabidopsis thaliana*, wherein the protein [having] comprises SEQ ID NO:3.--

--26. (Currently amended) A method of producing a transgenic plant with an earlier flowering [characteristics] time comprising: [the steps of] constructing a genetic construct

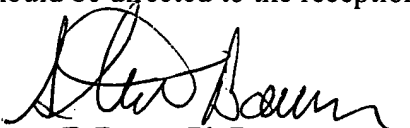
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comprising a plant expressible promoter [and] operably linked to an FPA polynucleotide sequence in sense orientation, wherein the FPA polynucleotide [having] comprises a coding region that encodes a protein [having] comprising SEQ ID NO:3, introducing the genetic construct into a plant cell, regenerating a plant from the plant cell, selecting a plant [that has received a copy of the] comprising the genetic construct, and growing the plant under conditions that allow expression of the FPA gene such that the plant flowers earlier than plants of the same species without the genetic construct.--

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stuart F. Baum whose telephone number is 571-272-0792. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached at 571-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.


Stuart F. Baum Ph.D.
Primary Examiner
Art Unit 1638
October 13, 2006